

received.<sup>2</sup> The Bureau returned the application without prejudice to refile a procedurally perfected application. Thereafter, Integrity filed in a timely manner a new Form 315 and an additional \$830.00 filing fee. In view of the circumstances recited above, we find that a refund of the original application filing fee is appropriate. *See* 47 C.F.R. §§1.1108, 1.1113(a). We therefore grant your request for a refund of the \$830.00 application filing fee associated with the April 28, 2005 application.

A check, made payable to the maker of the original check, and drawn in the amount of \$830.00, will be sent to you at the earliest practicable time. If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark A. Reger  
Chief Financial Officer

---

<sup>2</sup> *See CDBS Electronic Filing System User's Guide*, [http://svartifoss2.fcc.gov/prod/cdbb/forms/prod/cdbb\\_ug.htm](http://svartifoss2.fcc.gov/prod/cdbb/forms/prod/cdbb_ug.htm) (Payment of filing fees associated with electronically-filed applications "must be received by Mellon Bank [, the Commission's lockbox bank,] within 14 (calendar) days of the date that the application is officially received by the Media Bureau's electronic filing system . . . . This deadline applies to any payment submission method (electronic or via a paper check). If payment is not received in time, the filed application will be considered to be *not paid* and will therefore not be processed by the MB.") (Emphasis in the original.)

**Adama Jarr**

**From:** Regina Dorsey  
**Sent:** Monday, June 27, 2005 6:42 AM  
**To:** Adama Jarr  
**Subject:** FW: Form 315 - Refund

0505178 350894469

Have you seen this request?

\*\*\* Non-Public: For Internal Use Only \*\*\*

-----Original Message-----

**From:** Simon Lincoln [mailto:simon@lincolnlegal.com]  
**Sent:** Friday, June 24, 2005 3:00 PM  
**To:** Clara Boykin; norman.boyden@fcc.gov; patricia.capello@fcc.gov; Regina Dorsey  
**Cc:** Konrad Herling  
**Subject:** Form 315 - Refund

Konrad Herling suggested that I contact you regarding this matter. My name is Simon Lincoln and I am an attorney representing Integrity Radio of Florida. I sent a copy of the letter below on June 8 and my client confirmed to me today that he still has not received a refund of his \$830. We have since refiled the Form 315 (June 20) and have paid an extra \$830 (June 24) for the new filing. We are simply asking for a refund of the original payment, described below:

Re: Refund - WFLN Radio

Dear Mr. Fishel:

I am writing to you on behalf of my client, Integrity Radio of Florida, LLC ("Integrity"). Integrity is the licensee of WFLN radio in Arcadia, Florida. The owners of Integrity are contemplating a sale of membership interests that would constitute a change in control. We therefore filed Form 315 in accordance with FCC regulations, on April 28, 2005. When we tried to pay the \$830 fee associated with the form, we ran into a number of difficulties. A number of times we tried to pay by credit card on the FCC website, with no success. A few times, the final screen simply stated "This page can not be displayed". Regardless, we finally succeeded in paying the filing fee. Unfortunately, the filing fee was officially paid on May 17, 2005, which is more than 14 days after the date of filing of the Form 315. After speaking with a FCC representative, I understand that we will not receive approval of that Form 315 because the fee was paid late. Therefore, I kindly request that you refund the \$830 that was charged on May 17, 2005, to Visa card number 4802132398336100, expiration date October 31, 2005. The credit card is in the name of Integrity Radio of Florida, LLC, and the signatory is George S. Kalman. Please feel free to contact me if you have any questions.

Regards,

*Simon J. Lincoln, Esq.*  
476 Broome Street, Suite 5A  
New York, NY 10013  
Tel: 212-625-3110  
Fax: 212-625-3421  
[simon@lincolnlegal.com](mailto:simon@lincolnlegal.com)

6/29/2005

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

*Adm. C*

OCT 25 2005

OFFICE OF  
MANAGING DIRECTOR

Paul H. Brown  
Counsel for KMRI Radio, LLC  
Wood, Maines & Brown Chartered  
1827 Jefferson Place, N.W.  
Washington, DC 20036

Re: KMRI Radio, LLC  
Request for Waiver of FY 2004  
Regulatory Fees  
Fee Control No. 00000RROG-05-062

Dear Mr. Brown:

This responds to your January 21, 2005 letter requesting waiver of the regulatory fees for fiscal year (FY) 2004 for KMRI Radio, LLC (KMRI Radio), licensee of AM radio broadcast station KMRI in West Valley City, Utah. Our records show that the FY 2004 regulatory fee in the amount of \$3,656.25, which includes a late penalty of \$731.25, has not been paid. Your request for a waiver of the regulatory fee for FY 2004 is granted.

In your request you explain that KMRI Radio purchased AM station KMRI in 1998, that KMRI is the sole asset of KMRI Radio, and that Pat Openshaw, the sole owner and manager of KMRI Radio, has no ownership interest in any other radio station. You assert that KMRI has never been profitable. You explain that as a small AM station, KMRI cannot compete for listeners with FM stations or with larger AM stations that have talk radio-type formats. You explain further that no wages have been paid during FY 2004, that the station is able to remain on the air by virtue of volunteers, and that Mrs. Openshaw has personally covered the losses of the station and purchased new equipment as needed. You state that Mrs. Openshaw's goal is not to earn a profit but rather to provide what she believes is an important public service to the community. Finally, you request that we consider depreciation as an expense because it represents the declining value of the station's equipment that will need replacement at some point, and focusing on cash flow absent consideration of depreciation expense will render the station unable to replace obsolete equipment and jeopardize continued service to the community. You submit a statement of revenues and expenditures for, among other periods, the twelve months ending on September 30, 2004, that demonstrates a negative cash flow even when depreciation is deducted.

In establishing a regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. The Commission therefore decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship." See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), recon. granted, 10 FCC Rcd 12759 (1995). In reviewing a showing of financial hardship, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits, and considers whether the station lacks sufficient funds to pay the regulatory fee and maintain service to the public. Thus, even if a station loses money, any funds paid to principals, deductions for depreciation or similar items are considered funds available to pay the fees.

Our review of the financial documentation you submitted indicates that KMRI experienced a small financial deficit in FY 2004, even after deducting depreciation expense of \$36,602 from the reported loss of \$37,873. Moreover, you have established that no payments were made to any principal or officer of the corporation. Based on your filings, we find that you have established a compelling case of financial hardship. Therefore, your request for a waiver of the regulatory fee for FY 2004 is ~~granted~~. This waiver, however, is limited to the FY 2004 regulatory fee and the associated late penalty. If KMRI continues to experience financial hardship, you may request waivers of the fees for succeeding years accompanied by appropriate supporting documentation.

You also have requested ~~confidential treatment of the material that you submitted with your request for fee relief~~. Pursuant to section 0.459(d)(1) of the Commission's rules, 47 C.F.R. § 0.459(d)(1), we do not routinely rule on requests for confidential treatment until we receive a request for access to the records. The records are treated confidentially in the meantime. If a request for access to the information submitted in conjunction with your regulatory fees is received, you will be notified and afforded the opportunity to respond at that time.

If you have any questions concerning this letter, please contact the Revenue and Receivable Operations Group at (202) 418-1995.

Sincerely,



✱ Mark A. Reger  
Chief Financial Officer

## WOOD, MAINES &amp; BROWN

CHARTERED  
ATTORNEYS AT LAW  
1827 JEFFERSON PLACE, N.W.  
WASHINGTON, D.C. 20036

STAMP &  
RETURN

BARRY D. WOOD  
RONALD D. MAINES  
PAUL H. BROWN  
STUART W. NOLAN, JR.\*

TELEPHONE - (202) 293-5333  
FACSIMILE - (202) 293-9811  
E-MAILS - VMB@VMBLAW.ORG  
& VMB@LEGALCOMPASS.COM  
WEB - WWW.LEGALCOMPASS.COM

\*Admitted in Virginia only

January 21, 2005

00000RROG-05-062

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

RECEIVED

JAN 21 2005

Attn: Office of Managing Director

Federal Communications Commission  
Office of Secretary

Re: KMRI Radio, LLC  
KMRI, West Valley City, Utah  
Facility Id No. 25405  
Request for Waiver of Regulatory Fees  
FY 2004

CONFIDENTIAL TREATMENT REQUESTED

Dear Ms. Dortch:

On behalf of our client KMRI Radio, LLC ("KRL"), licensee of AM radio broadcast station KMRI, West Valley City, Utah, and pursuant to Section 1.1166 of the Rules, we hereby request that the waiver of regulatory fees which the FCC kindly granted for FY2003 be extended to FY2004 with respect to this station. Confidential treatment is requested regarding the financial data that is voluntarily disclosed to the Commission in this letter and the accompanying financial statements.

KRL purchased AM station KMRI in 1998. Radio station KMRI is the sole asset of KRL. Pat Openshaw, the sole member of KRL, has no ownership interest in any other radio station.

As is shown more fully by the enclosed financial statements, KMRI has never been profitable. Extreme financial hardship on the part of the licensee prevents payment of the regulatory fee, including payment subject to a refund pending action by the Commission on this request for a waiver of the fee.

Marlene H. Dortch

January 21, 2005

Page 2

Section 1.1165 of the Rules allows the Commission to waive regulatory fees where good cause is shown and where waiver of the fee would promote the public interest. Waiver of the FY 2004 regulatory fee for KMRI would promote the public interest by allowing KMRI to remain on the air and serve its community of license.

Since the Commission's action mandating FM tuners in virtually all broadcast receivers, FM broadcasting, bolstered by the superior quality of typical FM signals, has gradually taken over the audio radio market. The most powerful AM stations, particularly those located in the largest markets, can compete with FM broadcast stations for listeners in niche segments like talk radio where audio quality is less significant. Small AM stations, such as KMRI, cannot do so. KMRI, like many other AM broadcast stations, ekes out a meager existence on the fringes of radio broadcasting.

KRL has never been profitable. As shown in more detail on the enclosed statement, for Fiscal Year 2004 KRL had gross revenues of \$13,606. Total expenses for the same period have been \$51,479, resulting in a loss of \$37,873. The losses would have been much greater except that no wages were paid during this period. Clearly, KMRI is able to stay on the air only because of the support of volunteers who are committed to its religious format and who recognize that KRL lacks the resources to compensate them. Mrs. Openshaw has gone out of pocket to cover the station's losses and to invest in new equipment and other capitalized items as needs have arisen. She is not doing so out of any realistic hope of profits but because she believes that the public service that the station provides is important to the community.

KRL recognizes that on occasion the Commission's staff's, in its analyses of the ability of various licensees to pay regulatory fees, have focused on a station's cash flow, and have largely ignored the depreciation expense shown on the station's books.<sup>1</sup> However, even if one ignores depreciation expense incurred by KRL, the net loss for KMRI for FY-2004 is still \$1,271. KRL's ongoing and substantial losses render KRL unable to pay its FY-2004 regulatory fee.

In this regard, KRL urges the Commission to recognize that a depreciation expense represents the declining value of the station's equipment. In effect, depreciation recognizes that the station's equipment has a finite life and will someday need replacement. A disregard of depreciation, and a focus only on cash flow, reflects an approach to station financial management that, if followed by the licensee, would render KRL unable to replace obsolete equipment. Surely, neither the Congress nor the Commission intended the regulatory fee to be so burdensome to marginal stations that it would jeopardize their continued service to their communities. Should the Commission so desire, KRL

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<sup>1</sup> E.g., letter from Chief Financial Officer to Barry D. Wood, Fee Control No.: 00000RROG-03-077 (August 21, 2004).

Marlene H. Dortch

January 21, 2005

Page 3

will supplement this request with a final FY-2004 financial statement, once September's financial figures are available.

KMRI never had any "fat" in its budget. KMRI has excised even what other stations consider essential expenses. There is no more to cut. Payment of the assessed regulatory fee would therefore work an extreme hardship on this station. The Commission should appreciate that KMRI's owner is providing service, in the public interest, to West Valley City and the surrounding area, without any financial benefit to the owner.

Confidential Treatment of Data

This request for waiver or deferral of regulatory fees necessarily requires that KMRI submit to the Commission confidential financial data. Pursuant to Section 0.459(b) of the Rules, we therefore request confidential treatment of all financial data.

*(b) Each such request shall contain a statement of the reasons for withholding the materials from inspection (see §0.457) and of the facts upon which those records are based, including:*

*(1) Identification of the specific information for which confidential treatment is sought;*

KMRI seeks confidential treatment of all of the financial data included in this letter.

*(2) Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission;*

KMRI is requesting a waiver of payment regulatory fees for FY 2004.

*(3) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged;*

KMRI does not disclose this data to others, except its attorneys and accountants, who are under an ethical obligation not to disclose it.

*(4) Explanation of the degree to which the information concerns a service that is subject to competition;*

Marlene H. Dortch

January 21, 2005

Page 4

KMRI competes in the commercial broadcast radio service and is subject to competition from other such broadcasters, as well as other commercial media, in the Salt Lake City market.

*(5) Explanation of how disclosure of the information could result in substantial competitive harm;*

Disclosure of the financial information would result in substantial competitive harm for the reasons that led the Commission to provide blanket confidentiality on all Form 324 financial reports filed by broadcasters over several decades. Those reasons include the danger that a given station's suppliers and customers may go elsewhere if they learn of the nature of the broadcaster's financial situation. Customers may not commit to longer-term contracts if they have any reason to believe that a station may go dark because of a lack of funding. In addition, a station's competitors may be quick to exploit a perceived inability to match marketing efforts. In this case, such competitive harm to KMRI could damage its ability to contract for optimum programming, and to fund equipment purchases.

*(6) Identification of any measures taken by the submitting party to prevent unauthorized disclosure;*

KMRI has not shared its financial information with others.

*(7) Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties;*

The information is not available to the public and has not been previously disclosed except to KMRI's accountants and attorneys.

*(8) Justification of the period during which the submitting party asserts that material should not be available for public disclosure; and*

The financial material presented to the Commission should not be available for public disclosure for a period of ten years after a final decision regarding the grant of KMRI's request. After ten years, the financial data should no longer compromise KMRI with respect to the station's competitors.

*(9) Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.*



Marlene H. Dortch

January 21, 2005

Page 5

Confidential treatment of these materials is essential if the privacy of KMRI's owner is to be respected.

*(e) If the materials are submitted voluntarily (i.e., absent any direction by the Commission), the person submitting them may request the Commission to return the materials without consideration if the request for confidentiality should be denied. In that event, the materials will ordinarily be returned (e.g., an application will be returned if it cannot be considered on a confidential basis). Only in the unusual instance where the public interest so requires will the materials be made available for public inspection. However, no materials submitted with a request for confidentiality will be returned if a request for inspection is filed under §0.461. If submission of the materials is required by the Commission and the request for confidentiality is denied, the materials will be made available for public inspection.*

KMRI herewith submits the information voluntarily. Should the Commission determine that the information will not be afforded confidential treatment, KMRI requests that the Commission agree to consider a submission of the information, with the confidential materials therein redacted.

In the unlikely event that the Commission should (inexplicably) deny this request, it should be considered as a petition for deferral of any duty to pay off the errant regulatory fee due to financial hardship, for purposes of satisfying Section 1.1166 of the Rules.

Please call Barry Wood of this firm or the undersigned if you have any questions regarding this matter.

Yours truly,



Paul H. Brown  
counsel for KMRI Radio, LLC

kkb  
enc.

## KMRI Radio, LLC

## Summary of Revenues and Expenditures

	9 months ended 30-Sep-04	9 months ended 30-Sep-03	12 months ended 31-Dec-03	12 months ended 30-Sep-04
Revenue:				
Sales	\$7,531	\$26,399	\$32,474	\$13,606
Cost of Sales:				
Gross profit	\$7,531	\$26,399	\$32,474	\$13,606
Costs and expenses:				
Accounting	1,787	10,029	10,599	2,357
Advertising	1,641	3,485	3,979	2,135
Bank charges	130	80	104	154
Depreciation	26,891	28,173	37,884	36,602
Insurance	556	385	385	556
Licenses and dues	151	50	135	236
Rent	4,200	5,400	7,200	6,000
Repairs and Maintenance	218	3,299	4,827	1,746
Taxes	968	985	985	968
Utilities		8,129	8,854	725
	\$36,542	\$60,015	\$74,952	\$51,479
Net loss from operations	(\$29,011)	(\$33,616)	(\$42,478)	(\$37,873)
Net loss (less depreciation)	(\$2,120)	(\$5,443)	(\$4,594)	(\$1,271)

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BROWN & ASSOCIATES, LLC

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## ACCOUNTANTS COMPILATION REPORT

## Members

KMRI RADIO, LLC

We have compiled the accompanying statement of assets and liabilities arising from cash transactions of KMRI Radio, LLC as of September 30, 2004 and 2003 and the related statement of revenue and expenditures, for the period then ended in accordance with standards established by the America Institute of Certified Public Accountants.

A compilation is limited to presenting, in the form of financial statements, information that is the representation of management. We have not audited or reviewed the accompanying financial statements and, accordingly, do not express an opinion or any other form of assurance on them.

The Company's policy is to prepare its financial statements on the basis of cash receipts and disbursements; consequently, certain revenue and the related expenditures are recognized when paid rather than when the obligation is incurred. Accordingly, the financial statements referred to above are not intended to present financial positions and results of operations in conformity with generally accepted accounting principles.

The supplementary information contained from page 1 of of the general ledger through the end of the report is presented for purposes of additional analysis and has been compiled by us from information that is the representation of management without audit or review. Accordingly, we do not express an opinion or any other form of assurance on such supplementary information.

November 23, 2004

1666 Hallam Road, Kamas, Utah 84036  
(435) 783-6226 Fax (435) 783-6228

**KMRI RADIO, LLC**  
**STATEMENTS OF REVENUES AND EXPENDITURES**  
**9 Months Ended September 30, 2004 and 2003**

Unaudited

	2004	2003
Revenue:		
Sales	7,531	26,399
Cost of sales:	7,531	26,399
	0	0
Gross profit	7,531	26,399
Costs and expenses:		
Accounting and legal	1,787	10,029
Advertising	1,641	3,485
Bank charges	130	80
Depreciation	26,891	28,173
Insurance	556	385
Licences and dues	151	50
Rent	4,200	5,400
Repairs and Maintenance	218	3,299
Taxes	968	985
Utilities	0	8,129
	36,542	60,015
Net loss from operations	(29,011)	(33,616)

See Accountants compilation report

**KMRI RADIO, LLC**  
**STATEMENTS OF ASSETS AND LIABILITIES**  
**August 31, 2004 and 2003**

Unaudited

**ASSETS**

	2004	2003
<b>Current assets:</b>		
Cash in bank	150	2,390
<b>Total current assets</b>	<b>150</b>	<b>2,390</b>
<b>Fixed assets:</b>		
Buildings & Equipment	603,595	602,595
Less accumulated depreciation	(289,186)	(252,442)
<b>Total fixed assets</b>	<b>314,409</b>	<b>350,153</b>
	<b>314,559</b>	<b>352,543</b>

**LIABILITIES AND MEMBERS' EQUITY**

<b>Current liabilities:</b>		
<b>Total current liabilities</b>	<b>0</b>	<b>0</b>
Long term debt	5,000	2,000
<b>Total long term liabilities</b>	<b>5,000</b>	<b>2,000</b>
<b>Members' equity:</b>		
Members' capital	634,561	634,561
Members' equity	(312,981)	(270,509)
Distributions	15,000	15,000
Net loss for period	(27,021)	(20,509)
<b>Total Members' equity</b>	<b>309,559</b>	<b>350,543</b>
	<b>314,559</b>	<b>352,543</b>

See Accountants compilation report

**KMRI RADIO, LLC**  
**STATEMENTS OF REVENUES AND EXPENDITURES**  
**8 Months Ended August 31, 2004 and 2003**

**Unaudited**

	2004	2003
Revenue:		
Sales	6,465	24,112
Cost of sales:	6,465	24,112
	0	0
Gross profit	6,465	24,112
Costs and expenses:		
Accounting and legal	1,787	8,519
Advertising	1,641	3,485
Bank charges	122	72
Depreciation	23,903	25,043
Insurance	556	385
Licences and dues	91	50
Rent	4,200	4,300
Repairs and Maintenance	218	3,299
Taxes	968	985
Utilities	0	6,487
	33,486	52,625
Net loss from operations	(27,021)	(28,513)

See Accountants compilation report

**KMRI RADIO, LLC**  
**STATEMENTS OF ASSETS AND LIABILITIES**  
**September 30, 2004 and 2003**

**Unaudited**

**ASSETS**

	2004	2003
<b>Current assets:</b>		
Cash in bank	1,147	416
<b>Total current assets</b>	<b>1,147</b>	<b>416</b>
<b>Fixed assets:</b>		
Buildings & Equipment	603,595	602,595
Less accumulated depreciation	(292,174)	(255,572)
<b>Total fixed assets</b>	<b>311,421</b>	<b>347,023</b>
	<b>312,568</b>	<b>347,439</b>

**LIABILITIES AND MEMBERS' EQUITY**

<b>Current liabilities:</b>		
<b>Total current liabilities</b>	<b>0</b>	<b>0</b>
Long term debt	5,000	2,000
<b>Total long term liabilities</b>	<b>5,000</b>	<b>2,000</b>
<b>Members' equity:</b>		
Members' capital	634,561	634,561
Members' equity	(312,982)	(270,510)
Distributions	15,000	15,000
Net loss for period	(29,011)	(33,612)
<b>Total Members' equity</b>	<b>307,568</b>	<b>345,439</b>
	<b>312,568</b>	<b>347,439</b>

See Accountants compilation report

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

OCT 25 2005

OFFICE OF  
MANAGING DIRECTOR

William L. Zawila  
Counsel for Estate of Linda Ware,  
Cynthia Ramage, Executor  
12600 Brookhurst Street, Suite 105  
Garden Grove, CA 92840

Re: KZPO-FM, Lindsay, California  
Request for Waiver of Regulatory Fees  
Fee Control No. 00000RROG-05-061

Dear Mr. Zawila:

This responds to your July 2, 2005 petition on behalf of the Estate of Linda Ware, Cynthia Ramage, Executor (Ware Estate), for waiver of regulatory fees for KZPO-FM, Lindsay, California. You request reconsideration of our June 6, 2005 decision denying your earlier fee waiver request for KZPO-FM for fiscal years (FYs) 2003 and 2004, based on information you submitted to supplement your request on March 21, 2005.<sup>1</sup> Our records show that the FY 2003 and FY 2004 regulatory fees in the amounts of \$906.25 and \$593.75, respectively, including late payment penalties, have not been paid. As discussed below, your request for waiver of the FY 2004 regulatory fee is granted, and your request for a waiver of the FY 2003 regulatory fee is denied.

In your supplementary information, you state that KZPO-FM's financial condition continues to deteriorate and it is unknown how long the station can continue to provide service. You reiterate that KZPO-FM is the only local service in Lindsay, California, and it is in the public interest that KZPO-FM should remain on the air to provide service to the community. Finally, you reiterate that grant of your waiver request will allow reinstatement of your application to transfer KZPO-FM to Lazer Broadcasting Corporation, which will maintain the station on the air.

As we advised you previously, the Commission will grant waivers of its regulatory fees on a sufficient showing of financial hardship. See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12761-62 (1995). Regulatees can establish financial hardship by submitting

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<sup>1</sup> Your petition for reconsideration requests waiver of "all regulatory fees for KZPO-FM, including FY 2003 and FY 2004," but the financial information you submitted appears to cover only "the year ended December 31, 2004," i.e., calendar year 2004 ("Statement of Operations For The Year Ended 12-31-04").



information such as a balance sheet and profit and loss statement (audited, if available), a cash flow projection . . . (with an explanation of how calculated), a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information. 10 FCC Rcd at 12762.

In establishing a regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. The Commission therefore decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship." See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), recon. granted, 10 FCC Rcd 12759 (1995). In reviewing a showing of financial hardship, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits, and considers whether the station lacks sufficient funds to pay the regulatory fee and maintain service to the public. Thus, even if a station loses money, any funds paid to principals, deductions for depreciation or similar items are considered funds available to pay the fees.

Our review of the financial documentation you submitted indicates that KZPO-FM had expenses of over \$270,000 in 2004 and gross revenues of under \$32,000. Thus, your statement shows that KZPO-FM experienced a financial deficit in 2004 without regard to any deduction for depreciation or payments to any principal or officer of the station. Therefore, your request for a waiver of the regulatory fee for FY 2004 is granted. This waiver, however, is limited to the FY 2004 regulatory fee. If KZPO-FM continues to experience financial hardship, you may request waiver of the fees for succeeding years only if supported by appropriate documentation.

As to your request for waiver of the FY 2003 regulatory fees, you have not submitted information pertinent to that year. As we advised you previously, in the absence of documentation, or other relevant showing, you have failed to establish a compelling case for relief. Therefore, we deny your request for reconsideration of our June 6, 2005 decision as to the FY 2003 regulatory fees. Payment of the FY 2003 fees and penalties, in the amount of \$906.25, is now due. The regulatory fee should be filed with a Form FCC 159 (copy enclosed) within 30 days from the date of this letter.

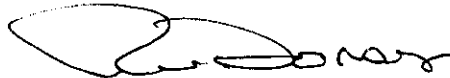
As to your request that your application to transfer KZPO-FM to Lazer Broadcasting be reinstated, as we advised you previously, we will address this matter separately from your fee waiver request.

William L. Zawila

3.

If you have any questions concerning this letter, please contact the Revenue and Receivable Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Reger", with a stylized flourish at the end.

Mark A. Reger  
Chief Financial Officer

Enclosure

~~00000 ARRG-05-06~~ 2  
00000 ARRG-06

BEFORE THE  
Federal Communications Commission  
WASHINGTON, D.C.

IN RE ESTATE OF LINDA WARE, )  
CYNTHIA RAMAGE, EXECUTOR, )  
PETITIONER - )  
RADIO STATION KZPO (FM), )  
LINDSAY, CA . )

FILE NO. BALH-20040217AEJ

TO: THE MANAGING DIRECTOR

PETITION FOR RECONSIDERATION

PETITIONER ESTATE OF LINDA WARE, CYNTHIA RAMAGE, EXECUTOR, LICENSEE OF RADIO STATION KZPO (FM), LINDSAY, CALIFORNIA, HEREBY REQUESTS RECONSIDERATION OF THE DECISION ANNOUNCED BY THE COMMISSION IN ITS LETTER OF JUNE 6, 2005, CONCERNING THE REQUEST FOR WAIVER OF REGULATORY FEES FOR KZPO (FM). IN ITS LETTER OF JUNE 6, 2005, THE COMMISSION DENIED THE REQUEST FOR WAIVER OF REGULATORY FEES FOR KZPO (FM).

THE COMMISSION DENIAL OF THE REQUEST FOR WAIVER OF REGULATORY FEES FOR KZPO (FM) IS BASED ON THE COMMISSION BELIEF THAT DOCUMENTATION SUPPORTING FINANCIAL HARDSHIP FOR KZPO (FM) WAS NOT SUBMITTED TO THE COMMISSION AS STATED IN PETITIONER'S ORIGINAL PETITION OF FEBRUARY 10, 2005. THE COMMISSION BELIEF IN THIS REGARD IS INACCURATE.

A SUPPLEMENT TO THE PETITION FOR WAIVER OF REGULATORY FEES WAS FILED WITH THE COMMISSION ON MARCH 21, 2005. THIS SUPPLEMENT CONTAINED AN OPERATING STATEMENT FOR KZPO (FM) FOR THE YEAR ENDED

DECEMBER 31, 2004.

ATTACHED HERETO FOR EASE OF REFERENCE IS A COPY OF THE COMMISSION'S LETTER OF JUNE 6, 2005, AND A COPY OF THE SUPPLEMENT TO THE PETITIONER'S ORIGINAL PETITION FOR WAIVER OF REGULATORY FEES. THE SUPPLEMENT BEARS THE COMMISSION'S DATE RECEIVED STAMP SHOWING RECEIPT ON MARCH 21, 2005.

IN ITS LETTER OF JUNE 6, 2005, THE COMMISSION STATES THAT REGULATORY FEES FOR FY 2003 AND FY 2004 ARE DUE FOR KZPO(FM). TO CLARIFY THE ORIGINAL PETITION WHICH REQUESTS WAIVER OF REGULATORY FEES FOR KZPO(FM), THE PETITIONER IS REQUESTING WAIVER OF ALL REGULATORY FEES FOR KZPO(FM), INCLUDING FY 2003 AND FY 2004.

ALSO IN ITS LETTER OF JUNE 6, 2005, THE COMMISSION STATES THAT REGULATEES CAN ESTABLISH FINANCIAL HARDSHIP BY SUBMITTING, AMONG OTHER THINGS, A PROFIT AND LOSS STATEMENT. THE OPERATING STATEMENT ATTACHED TO THE ABOVE-REFERENCED SUPPLEMENT IS ESSENTIALLY A PROFIT AND LOSS STATEMENT FOR THE YEAR ENDING DECEMBER 31, 2004. THIS OPERATING STATEMENT SHOWS, AMONG OTHER THINGS, THAT KZPO(FM) HAS NO SALARIED EMPLOYEES AND NO COMPENSATED OFFICERS.

THE COMMISSION LETTER DATED JUNE 6, 2005, ALSO STATES THAT THE PETITIONER MAY REFILE THE REQUEST FOR WAIVER OF REGULATORY FEES WITH APPROPRIATE SUPPORTING DOCUMENTATION. THE PETITIONER SUBMITS THAT THIS REQUEST FOR RECONSIDERATION IS CONSISTENT WITH THE LETTER OF JUNE 6, 2005. AS DEMONSTRATED ABOVE, THE SUPPORTING DOCUMENTATION HAS ALREADY BEEN FILED WITH THE COMMISSION AND A COPY IS ALSO ATTACHED HERETO.

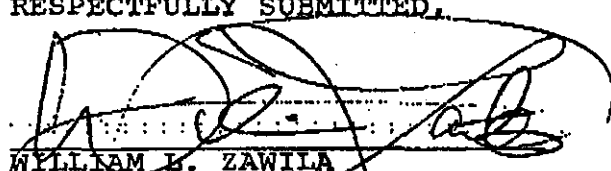
THE PETITIONER RESPECTFULLY REQUESTS THAT THIS MATTER BE RECONSIDERED BY THE COMMISSION BASED ON THE POINTS OUTLINED ABOVE AND THAT ALL REGULATORY FEES, INCLUDING FY 2003 AND FY 2004, BE WAIVED FOR KZPO(FM) .

THE COMMISSION LETTER OF JUNE 6, 2005, ALSO STATES THAT THE REQUEST FOR REINSTATEMENT OF THE APPLICATION FOR TRANSFER OF KZPO(FM) TO LAZER BROADCASTING WILL BE ADDRESSED SEPARATELY. TO DATE, THE PETITIONER HAS RECEIVED NO COMMUNICATION FROM THE COMMISSION REGARDING THE REQUEST FOR REINSTATEMENT OF THE SAID APPLICATION OTHER THAN THE REFERENCE TO SEPARATE CONSIDERATION OF THIS MATTER CONTAINED IN THE LETTER OF JUNE 6, 2005.

THE PETITIONER WISHES TO POINT OUT THAT THE ONLY REASON THAT THE APPLICATION TO TRANSFER KZPO(FM) TO LAZER BROADCASTING WAS DISMISSED WAS THAT REGULATORY FEES FOR KZPO(FM) WERE NOT PAID. THE PETITIONER WISHES TO HEREBY REITERATE ITS REQUEST THAT ALL REGULATORY FEES FOR KZPO(FM) BE WAIVED AS REQUESTED ABOVE AND THAT THE APPLICATION FOR TRANSFER OF KZPO(FM) BE REINSTATED.

RESPECTFULLY SUBMITTED.

JULY 2, 2005

  
WILLIAM L. ZAWILA  
ATTORNEY FOR THE ESTATE OF  
LINDA WARE, CYNTHIA RAMAGE,  
EXECUTOR  
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GARDEN GROVE, CA 92840  
(714) 636-5040-TELEPHONE  
(714) 636-5042-FAX

Adm

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554  
OCT 25 2005

OFFICE OF  
MANAGING DIRECTOR

Phillip L. Verveer  
Jennifer D. McCarthy  
McLean Sieverding  
Willkie Farr & Gallagher LLP  
1875 K Street, N.W.  
Washington, D.C. 20006

Re: Request for FY 2005 Fee Waiver  
Fee Control No. 00000RROG-05-063

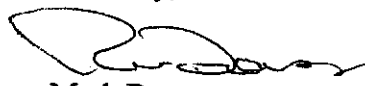
Dear Counsel:

We reviewed the August 19, 2005 request on behalf of Loral SpaceCom Corporation (Debtor-In Possession), Loral Orion Inc. (Debtor-In Possession), and Loral Skynet Network Services, Inc. (Debtor-In Possession) (collectively Loral and affiliates) that we waive and defer payment of the collective fiscal year (FY) 2005 regulatory fees. For the reasons set out below, we grant your request for a waiver of \$255,711.69 in regulatory fees due for FY 2005.<sup>1</sup>

Based on proof of bankruptcy filed pursuant to Chapter 11 of the Federal Bankruptcy Code of the United States,<sup>2</sup> we find that you established evidence of financial hardship and good cause to warrant granting the requested relief from the Section 9<sup>3</sup> regulatory fees. *Implementation of Section 9 of the Communications Act Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*, Memorandum Opinion and Order, 10 FCC Rcd 12759, 12761-62, ¶¶ 13-14 (1995) (evidence of bankruptcy or receivership is sufficient to establish financial hardship).

Therefore, your request is granted. If you have any questions concerning this letter, you may call the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

  
Mark Reger  
Chief Financial Officer

<sup>1</sup> By this letter, we are also granting Loral and affiliates' request that we defer the requirement to submit the fees until a decision is rendered on the request for the waiver.

<sup>2</sup> Loral and affiliates filed at Attachment B of its Petition, copies of the Notice of Bankruptcy Case Filing, dated July 15, 2003, United States Bankruptcy Court, Southern District of New York, for Loral SpaceCom Corporation, *aka* Skynet (case number 03-41709); Loral Orion, Inc., *aka* Loral CyberStar, Inc., *aka* Loral Orion Services, Inc. *aka*, Loral Orion Network Systems, Inc., *aka* Orion Network Systems, Inc. (case number 03-41716); and Loral Skynet Network Services, Inc., *aka* Loral CyberStar Data Services Corporation, *aka* Loral CyberStar, Inc., (case number 03-41727).

<sup>3</sup> 47 U.S.C. § 159.

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FINANCIAL OPERATIONS  
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In re:

Loral SpaceCom Corporation  
(Debtor in Possession)  
Loral Orion, Inc.  
(Debtor in Possession)  
Loral Skynet Network Services, Inc.  
(Debtor in Possession)

Request for Waiver and Petition  
for Deferral of FY 2005 Regulatory  
Fees

To: Managing Director

REQUEST FOR WAIVER AND PETITION FOR DEFERRAL OF FY 2005  
REGULATORY FEES

Pursuant to Section 1.1166 of the Commission's rules, 47 C.F.R. §1.1166, Loral SpaceCom Corporation, Loral Orion, Inc., and Loral Skynet Network Services, Inc., each a debtor and debtor in possession (collectively "the Debtors"), request a waiver of their FY 2005 regulatory fees. The Debtors are the licensees of various satellite and earth station FCC licenses.<sup>1</sup> They are engaged in the satellite services business. On July 15, 2003, each of the Debtors commenced with the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") a voluntary case under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code").<sup>2</sup> The Debtors

<sup>1</sup> Attachment A contains a complete list of FCC feeable licenses, by licensee.

<sup>2</sup> The Debtors' Chapter 11 cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure under the caption of In re Loral Space & Communications Ltd., et al. (Chapter 11 Case No. 03-41710 (RDD)). Notice of Bankruptcy Case Filings for each entity are provided in Attachment B.

are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

Due to compelling financial hardship that continues as a result of the Debtors' chapter 11 cases, the Debtors respectfully request a waiver of the \$255,711.69 in regulatory fees due for FY 2005. The Debtors also request that they be allowed to defer payment of the applicable FY 2005 regulatory fees, pending action on the instant waiver request and consistent with the Bankruptcy Code, or, if the waiver request is denied, for at least an additional six (6) months past the September 7, 2005 due date.<sup>3</sup> This request is supported by the facts and law discussed below and the documentation contained in Attachment B.

The FCC has clearly stated that "[e]vidence of bankruptcy or receivership is sufficient to establish financial hardship" in the context of a request for waiver of the Commission's regulatory fees.<sup>4</sup> As a result of the Debtors' bankruptcy proceedings, the Debtors require all available cash to continue providing service to their customers.

In its Report and Order adopting FY 2003 regulatory fees, the Commission reiterated that bankruptcy would warrant a waiver of regulatory fees.<sup>5</sup> It also adopted a cap of \$500,000 on waiver requests.<sup>6</sup> The FCC has clearly stated that the public

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<sup>3</sup> 47 C.F.R. § 1.1166(b). Payment Methods and Procedures For Fiscal Year 2005 Regulatory Fees, Public Notice, DA 05-2087 (rel. July 27, 2005).

<sup>4</sup> See In re Assessment and Collection of Regulatory Fees for Fiscal Year 2003, Notice of Proposed Rulemaking, 18 FCC Rcd. 6085 at ¶ 10 (2003) (citing In re Implementation of Section 9 of the Communications Act Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, Memorandum Opinion and Order, 10 FCC Rcd. 12759 at ¶ 14 (1995)).

<sup>5</sup> In re Assessment and Collection of Regulatory Fees for Fiscal Year 2003, Report and Order, 18 FCC Rcd. 15985 at ¶ 13 (2003).

<sup>6</sup> Id. at ¶ 14.



interest will be served by assisting financially distressed companies by granting them relief from regulatory fees.<sup>7</sup> Indeed, the Commission granted Loral's request for a waiver and deferral of all of its FY 2004 regulatory fees as well as other requests similar to the instant one filed by the Debtors.<sup>8</sup>

The Debtors have been working closely with their creditors to emerge from their bankruptcy proceedings in a timely manner. On August 1, 2005, the Bankruptcy Court entered an order confirming the Debtor's Fourth Amended Joint Plan of Reorganization (the "Plan of Reorganization") under chapter 11 of the Bankruptcy Code, as modified, and such order has become a final, non-appealable order. The Effective Date of the Plan of Reorganization has not yet occurred. Loral currently expects that, after it satisfies customary regulatory and certain other conditions, such as receipt of FCC approval, its Plan of Reorganization will become effective. The company hopes to emerge from chapter 11 status early in the fourth quarter of 2005. Meanwhile, all cash is needed for operations to continue service to customers.

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<sup>7</sup> Id. at ¶ 13.

<sup>8</sup> See Letter to Philip L. Verveer, Willkie Farr & Gallagher LLP from Mark A. Reger, Chief Financial Officer, Federal Communications Commission, Re: Request for waiver of Fiscal Year (FY) 2004 Regulatory Fees for Loral SpaceCom Corporation (Debtor-in-Possession), Loral Orion, Inc. (Debtor-in-Possession), and Loral Skynet Network Services, Inc. (Debtor-in-Possession), Control No. 00000RROG-04-069 (Oct. 22, 2004). In addition, the Commission granted, in part, Loral's request for a waiver and deferral of its FY 2003 regulatory fees. See Letter to Philip L. Verveer and Jennifer D. McCarthy, Willkie Farr & Gallagher LLP from Mark A. Reger, Chief Financial Officer, Federal Communications Commission, re Loral SpaceCom Corporation (Debtor-in-Possession), Loral Satellite, Inc. (Debtor-in-Possession), Loral Orion, Inc. (Debtor-in-Possession), Loral Skynet Network Services, Inc. (Debtor-in-Possession), Request for Waiver and Deferral of FY 2003 Annual Regulatory Fees, Fee Control No. 00000RROG-03-114 (June 7, 2004); see also Letter to Stephen R. Bell and Sophie Keefer, Willkie Farr & Gallagher from Mark A. Reger, Chief Financial Officer, Federal Communications Commission, 360atlantic (USA) inc. Request for Waiver and Deferral of Regulatory Fees Fee Control No. 00000RROG-02-110 (January 31, 2003).